

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(Philadelphia)**

IN RE:

**Brian C Gardner
Ashley M Gardner aka Ashley Simpson**

Debtors

CHAPTER 13

CASE NO.: 23-10462-mdc

HEARING DATE: 02/06/2024

TIME: 10:30am

LOCATION: COURTROOM #2

**MOTION OF WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2015-1,
FOR RELIEF FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. § 362(A)
TO PERMIT MOVANT TO COMMENCE OR CONTINUE FORECLOSURE
PROCEEDINGS ON 704 CLYMER LANE, RIDLEY PARK, PA 19078-1311**

AND NOW COMES, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2015-1 (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. §362(a) to permit Movant to continue its foreclosure on real property located at 704 Clymer Lane, Ridley Park, PA 19078-1311 (the “Mortgaged Premises”).

2. On or about June 19, 2006, Brian Gardner and Ashley Simpson (“Borrowers”) executed and delivered to Wachovia Mortgage Corporation a Promissory Note (“Promissory Note”) in the principal amount of \$174,000.00. A true and correct copy of the Promissory Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Promissory Note, Borrowers granted Mortgage Electronic Registration Systems, Inc. as nominee for Wachovia Mortgage Corporation a valid, enforceable, and recorded first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the Delaware County Recorder of Deeds

Office on June 22, 2006 in Book 3833 at Page 2010. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit “B.”

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the full recorded Assignment of Mortgage Chain is attached hereto and made apart hereof as Exhibit “C.”

5. Borrowers entered into a loan modification with the prior servicer on or about June 1, 2010. A true and correct copy of the loan modification agreement is attached hereto and made apart hereof as Exhibit “D”.

6. On February 16, 2023, Debtors, Brian C Gardner and Ashley M Gardner aka Ashley Simpson, filed petition for relief under Chapter 13 of the United States Bankruptcy Code.

7. The Debtor in his Schedules filed March 3, 2023 states that the current value of the Mortgaged Premises is \$247,30000, after consideration of cost of sale.

8. A Proof of Claim was filed by Movant on April 26, 2023 as Claim #7-1. The Proof of Claim is in the amount of \$207,780.39 with pre-petition arrears due in the amount of \$31,366.81 together with additional legal fees and costs and taxes due and payable on the Mortgaged Premises.

9. The current monthly payment on the Mortgage is \$1,191.27.

10. On or about July 7, 2023, Debtor filed their Amended Chapter 13 Plan. The plan proposed for Debtors to pay post- petition payments directly to Movant.

11. The Debtors are currently in arrears post-petition for their failure to pay the post-petition payments due August 1, 2023 through December 1, 2023, in the amount of \$5,988.20 (\$1,223.12 x 1 month and \$1,191.27 x 4 months) less a suspense balance in the amount of \$1,212.10, for a total amount due of \$4,776.10.

WHEREFORE, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2015-1 respectfully requests that this Court enter an Order granting relief from the automatic stay

provisions of 11 U.S.C. § 362(a) to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtors in the foreclosure suit solely for the purpose of foreclosing their interests in the Mortgaged Premises, and to allow Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

By: /s/ Angela C. Pattison

Angela C. Pattison, Esq.,

Attorney ID 307611

Hill Wallack, LLP

1415 Route 70 East, Suite 309

Cherry Hill, NJ 08034

Telephone 856-616-8086

Facsimile 856-616-8081

Email: apattison@hillwallack.com